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Spring 2003

SPRING 2003
VOLUME 6 NUMBER 1

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MILK RIVER WATERSHED NEWS

Milk River to Receive $500,000 in State Grants

By Mike Dailey, MT DNRC

The Montana Legislature and Governor Martz approved the funding of five Renewable Resource Grant applications submitted by Milk River applicants. The grant sponsors and what the grants are to accomplish are identified in Table 1.

Many Milk River folks went to Helena to make this happen. The process started back on January 16 when they testified for two days in front of the Joint Appropriations Long-Range Planning Subcommittee. They testified on the many important issues facing water users in the basin such as the need to restore the aging and failing project facilities, the need to mitigate the effects of reserved water rights on the Fort Belknap and Blackfeet Indian Reservations and at the Bowdoin Wildlife Refuge, and the fact that the basin's economy depends on Milk and St. Mary river water for survival.

To help the grant applications, Max Maddox of the Alfalfa Valley Irrigation District, hauled a ten foot long, eight foot diameter section of the St. Mary siphon to Helena a week before the hearing on the grants. He displayed the section of the siphon prominently on the back lawn of the Capitol. During a brief recess, the legislators on the Long-Range Planning and Natural Resource Committees visited the siphon section and listened as Maddox and others explained the deteriorating condition of the two siphons. A photo of the legislatures in front of the pipe can be seen on page 3.

The Milk River water users made a positive impression during their two days in Helena. Of the seventy-three applications brought before the Long-Range Planning Committee, nine of them were from the Milk River Project - five of which were funded. Testimony and discussions brought to light the major concerns in the Milk River Basin. Representative Dave Kasten (HD 99) from Brockway, Chairman of the Long-Range Planning Subcommittee voiced his empathy and

(Grants Continued on Page 3)

Table 1. Successful Milk River Project Renewable Resources Grants

Applicant	Project	Amount
Paradise Valley Irrigation District	Pressurize pump and pipelines on the Hillside Lateral project.	$100,000
Chinook Division Irrigation Joint Board of Control	Replace worn seals on the regulating gates at Fresno Dam	$100,000
Milk River Project Joint Board of Control	Replace six worn expansion joints on the St. Mary Siphon.	$100,000
Malta Irrigation District	Replace 34 old check structures throughout the Malta Irrigation District	$100,000
Fort Belknap Irrigation District	Install pipe for the Sugar Factory Lateral where it passes through the City of Chinook.	$100,000

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OPINION

Canadian Dam on the Milk Could Harm U.S. Irrigators

By Randy Reed

The proposed Canadian dam on the Milk has been a topic of much discussion lately. There is a perception that the dam in Canada will benefit Milk River water users in the United States. Actually, there may be nothing to gain and much to lose.

The Boundary Waters Treaty of 1909 treats the St. Mary and Milk Rivers as one river system with the combined waters to be divided equally between Canada and the U.S. However, the 1921 International Joint Commission Order (IJC) treats the two rivers separately giving Canada considerably more water. The Order states that during the irrigation season (April 1 - October 31), Canada's share of the St. Mary is ¾ of the natural flow when it is 666 cfs or less, and flows over 666 cfs are divided 50/50. The Order also states that this division formula is reciprocated on the Milk River, where the United States' share of the Milk is ¾ of the natural flow when flows is 666 cfs or less, and flows above 666 cfs are divided equally. The problem is that the average annual flow of the St. Mary River is approximately 650,000 acre-feet/year, or five times more than the Milk River, which is only 125,000 acre-feet/year. Further, St. Mary flows are rather consistent, while Milk River flows are erratic with frequent extremely wet and dry periods and with many summers of no flow.

Besides this disparity with the existing 1921 Order, the U.S. surpluses or gives Canada an additional 80,000 acre-feet/year of its share of water from the St. Mary. This occurs because the U.S. lacks enough storage on the St. Mary River. While Canada surpluses an average of only 30,000 acre-feet/year of the Milk River to the U.S. The difference between Canada's inability to store water on the Milk as compared to the our inability to store and divert water on the St. Mary causes an average net loss of about 50,000 acre-feet per year to the U.S.

Construction of a Canadian dam on the Milk River will have an adverse impact on Milk River irrigators. The U.S. would lose much of the early runoff that runs into Fresno during the spring, which is used to start up the irrigation season while waiting for the St. Mary's high elevation snows to melt. Some people feel that a Canadian dam would be a cost effective approach to dealing with siltation of Fresno Reservoir - which it might be. But the downside is that Alberta will capture its share of the early spring water allowing the Province to add about 20,000 acres of new irrigation. The Milk River is already water short and over appropriated. If Alberta builds a Dam on the Milk, even during average moisture years, we could see further water-shortages that could dry up 20,000 to 30,000 acres of existing irrigation on the Milk River Project, which now receives only marginal water supplies.

In conclusion, the U.S. is already at a disadvantage with the existing division of the Milk and St. Mary rivers, which is skewed in Canada's favor, costing the U.S. at least 40,000 to 50,000 acre-feet per year. The only way to counter a Canadian dam on the Milk would be to build a much larger St. Mary canal, around 1,200 cfs, to bring fairness in the division of the boundary water. A better alternative to a Milk River dam in Alberta would be to construct Babb Dam on the St. Mary River and lease storage space to the Canadians. The Babb Dam would provide the ability to fairly divide the water for both countries.

Whatever the Canadians do, it still must be approved by the IJC. Please write Governor Judy Martz, Congressman Denny Rehberg, and Senators Conrad Burns and Max Baucus to express your concerns about a Canadian Milk River dam and its negative impacts to Montana.

Randy farms in the Milk River Basin near Chinook. He is also chair of the Milk River Project Development Association and a Water Conservation Coordinator for the Paradise Valley Irrigation District.

(Grants Continued from Page 1)

praised basin residents for what they are trying to do and promised to do what he could to help them given the current state fiscal crisis.

On the second day of hearings, Representative Tom Facey of Missoula HD 67, gave a humorous reminiscence of his childhood years growing up around the St. Mary diversion, tagging along with his uncle who worked as a ditch rider on the St. Mary canal. In the end, he spoke favorably, encouraging the committee to "take care" of the Milk River Project.

Subcommittee Member Senator Tropila (SD 24) of Great Falls complimented Kay Blatter for his active involvement in many Milk River activities. He asked him: "How many hats do you wear?". As we know, Kay is Chairman of the Milk River Project Joint Board of Control, the Milk River International Alliance, and President of Fort Belknap Irrigation District. Mr. Blatter provided favorable testimony during both days of testimony for all of the Milk River grant applications.

Of the 73 grant applications, about 40 were funded (some partially), amounting to a 55 percent success rate. Five of the nine Milk River Project grants were fully funded to the tune of $500,000. This year, about $4 million will be available for project funding in HB 6.

If you are interested in the status of legislative bills, you can track them on the World Wide Web at: http://www.leg.state.mt.us. ✓

Milk River Project Irrigators pose with legislators from the Long-Range Planning Committee and the Natural Resource Committee in front of a section of the St. Mary Siphon on the back lawn of the Capitol in Helena in January. Photographed left to right are: Bim Strausser, Randy Reed, Max Maddox, Rep.Christine Kaufmann, Rep John Musgrove, Rep Jeff Pattison, Rep Dave Kasten, Kay Blatter, Melvin Novak, Sen Joe Tropila, Sen Linda Nelson, Jack Gist, Rep. John Witt, Rep Rick Ripley, John Lacey, and Sen Bill Tash.

DNRC Water Resources Division Moves

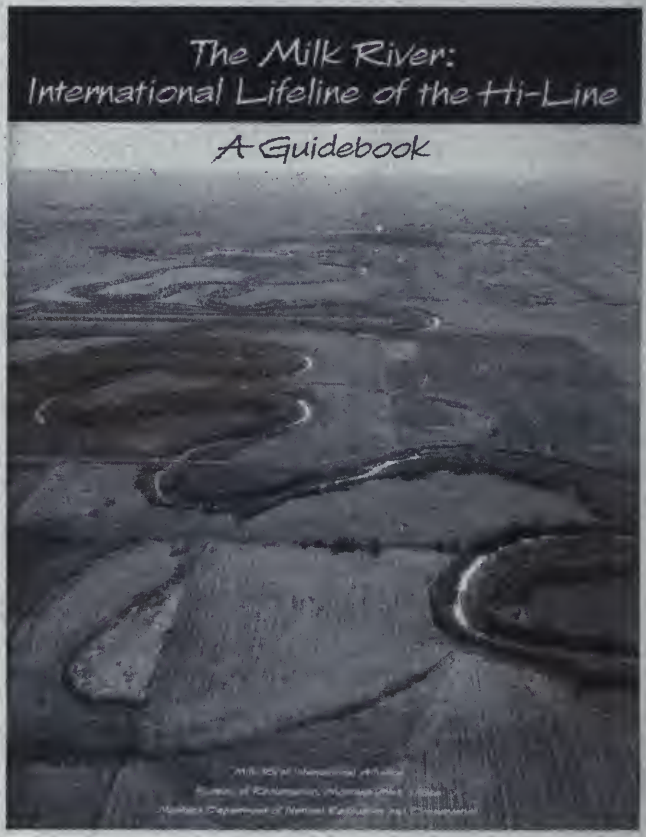
In March of 1996, the DNRC Water Resources Division moved from the Metcalf building on the capitol complex to downtown on the walking mall. Six years later they have moved back across town to their new home at 1424 9th Ave., just down the street from DNRC's headquarters. Their new location was formerly the headquarters of the Montana Department of Commerce. Department of Administration, General Services Division, has hired Karhu-Cullen Architects who prepared structural, electrical and mechanical drawings. The Water Resources Helena Regional Office has moved into this location also.

They enjoyed being downtown and will miss the good coffee and excitement of the downtown area. But there are many positive sides to the move such as: more space; co-locating with the regional office; much closer to the main DNRC building; and easier accessibility for the public. Maybe the most important benefit of the move will be to the Montana taxpayers, as facilities costs will be reduced by more than half. ✓

Coordinator's Corner

By Jim Thompson

The Milk River International Alliance is pleased to release our new educational guidebook entitled: "The Milk River: International Lifeline of the Hi-Line". This guidebook serves as a learning tool to accompany the award winning video of the same name (the 2000 Bronze Award under the Education Video production category by the Agricultural Communicators in Education). The video, which premiered in 1999 at the "Milk River - Know Your Watershed" workshop in Havre, has been shown numerous times by Montana Public Television. Together, the video and this guidebook provide an enduring information package to serve one of the Alliance's primary goals of providing an ongoing forum for education about the Milk River Watershed.



Although this guidebook was prepared under the direction of the Alliance, its creation would not have been possible without the efforts of the many watershed residents who contributed time and energy compiling the information found within the pages. Production and publication were made possible through funding support from the Montana Area Office of the U.S. Bureau of Reclamation and the Montana Department of Natural Resources and Conservation. The combined support of the Hill, Blaine, Phillips and Valley Conservation Districts was instrumental in obtaining the additional funding for publication and distribution from the Department of Natural Resources and Conservation.

We hope this guidebook will lead basin residents to discover something new and interesting about the Milk River country - a unique international watershed! For more information about the Alliance, please see page 30 of the guidebook.

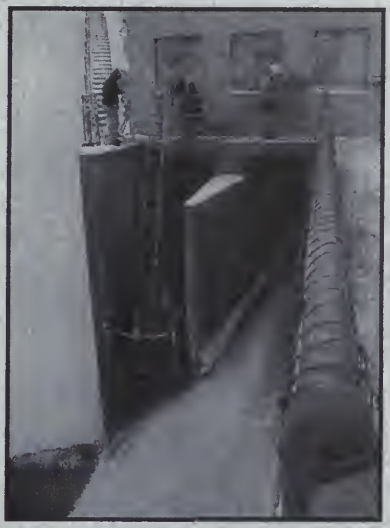
Copies of the guidebook can be picked up at your local conservation district office or by calling Kristi Kline in Havre at (406) 265-9031. Copies of the Milk River video can also be checked out from your local conservation district office. ✓

Representatives on the Milk River JBC:

Kay Blatter	Chairman	Fort Belknap Irr. Dist.	**Casey Kienenberger**	Member	Malta Irr. Dist.
Hugh Brookie	Vice-Chairman	Malta Irr. Dist.	**Ralph Snider**	Member	Harlem Irr. Dist.
Melvin Novak	Secretary	Glasgow Irr. Dist.	**Bruce Anderson**	Member	Paradise Valley Irr. Dist.
Lee Cornwell	Member	Glasgow Irr. Dist.	**Brad Tilleman**	Member	Zurich Irr. Dist.
Jack Gist	Member	Alfalfa Valley Irr. Dist.	**Joe Nicholson**	Member	Dodson Irr. Dist.

USBR engineer, Jerry Moore, shows irrigators wear due to cavitation on the 65 year-old regulating gate seals at Fresno Dam.

One of the Milk River Project proposals funded with Renewable Resource Grant dollars is the Fresno Dam Gate Leaf Seals replacement project. On a cold, windy, snowy February 21st, USBR personnel gave water users a crash course in confined space entry followed by a tour of the Fresno Dam Facilities.



USBR personnel prepare safety equipment before allowing irrigators to enter the right penstock while water releases of about 40 cfs continue to flow out the left penstock (on right side of photo).

Allan Steiner, USBR facilities manager explains the function and operation of the guard gates at Fresno Dam.

A section of the St. Mary siphon pipe on display in Chinook.

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Milk River Watershed News
is prepared and published by
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Milk River Water Supply Looks Good

By Jeremy Giovando, U.S. Bureau of Reclamation

The April forecasts are in and the overall water supply conditions look good. This is primarily due to the above-normal storage found in Fresno and Nelson Reservoirs for this time of year. Currently, Nelson is two and half feet from full and Fresno is about three and half feet. However, the current runoff forecast for the Milk River Basin does not look too promising. Only 44 percent of the average inflow is projected for April through July at the Eastern Crossing of the Milk River.

Over in the St. Mary Basin, conditions have been steadily improving. Last month, the basin received significant amounts of precipitation in the form of snow. In addition, the inflow to Lake Sherburne was above normal for March. The current forecasts for the April through July period for Swift Current Creek into Lake Sherburne is projected to be 83 percent of normal and 76 percent of normal for the St. Mary River at the international boundary.

Currently, the natural flows of the Milk River have been high due to low-level snowmelt that produced a peak discharge of approximately 2,000 [illegible] at Harlem on March 17. Because of the high flow, the canal diversion to Nelson Reservoir was started on March 17. Thus far, storage in Nelson Reservoir has increased by 10,000 acre-feet. With normal spring rain, the water users should have an adequate water supply. ✓

Reservoir	Storage in acre-feet	Percent of Normal	Percent of Full
Lake Sherburne	19,600	85	30
Fresno Reservoir	92,600	133	100
Nelson Reservoir	54,600 (active)	121	100

5/7/03

1,400 copies of this document were published at a total cost of $902.63 which includes $651.55 for printing and $251.08 for distribution.

MILK RIVER WATERSHED NEWS
DNRC—WATER RESOURCES DIVISION
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Governor Seeks Review of Milk and St. Mary Apportionments

In her April letter, Governor Martz asked Dennis Schornack, U.S. co-chair of the International Joint Commission (IJC) to review the 1921 IJC Order that apportions the flows of the St. Mary and Milk Rivers. The 1921 IJC Order sets out the procedures for implementing Article VI of the 1909 Boundary Waters Treaty between the United States and Canada. "The Order has been used to apportion the flows of the St. Mary and Milk Rivers for the past 82 years, Governor Martz stated in her letter. However, no one has evaluated the Order to determine whether it is meeting the intent of Article VI of the Treaty."

Martz further questioned "whether the combined flows of the St. Mary and Milk Rivers have been apportioned equally between the two countries. If the answer is no, we would like the IJC to work with the Provinces of Alberta and Saskatchewan and the State of Montana to determine how the flows can better be apportioned equally... to afford a more beneficial use to each (country)."

Martz quoted the first sentence of Article VI of the Treaty in her letter noting that it states "that the St. Mary and Milk Rivers and their tributaries (in the State of Montana and the Provinces of Alberta and Saskatchewan) are to be treated as one stream for the purposes of irrigation and power, and the water therefore shall be apportioned equally between the two countries, but in making such equal apportionment more than half may be taken from one river and less than half from the other by either country as to afford a more beneficial use to each." Montana would like the review to determine whether the provisions of this sentence are being met.

Martz urged the "IJC [to] initiate this evaluation in the very near future as the State of Montana and the United States Bureau of Reclamation are evaluating options for meeting existing and future water needs of a number of native American Tribes that reside within the basin as well as the Milk River water users that suffer significant water shortages. Further, the information would be beneficial to Alberta with its ongoing planning effort for a new water storage project on the Milk River in Alberta."

The IJC responded in June to Governor Martz by stating, "The commission is exploring whether or not to conduct a review of its 1921 Order as requested. As part of that process, we plan to be in contact with key officials in both countries. We intend, through these initial contacts, to gain a more fulsome understanding of issues and concerns, as well as likely resource requirements should the Commission decide to undertake a review." As a follow up, Herb Gray and Dennis Schornack, the Canadian and U.S. co-chairs of the IJC, toured the basin in early August and talked with many of the affected parties.

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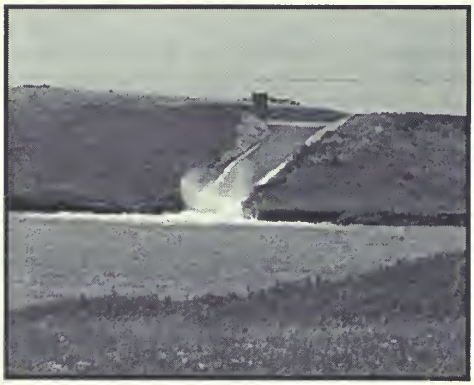
Dodson Dam Repairs Begin

By Bud Mavencamp

The Malta Irrigation District (MID) depends on the Dodson Diversion Dam for its water. The Milk River is diverted into the Dodson North and Dodson South canals. The Dodson South Canal feeds Bowdoin National Wildlife Refuge and Nelson Reservoir, storing water for Malta and Glasgow Irrigation Districts. The Dodson North Canal supplies water for the Dodson Irrigation District as well as for MID.

MID projects were constructed during the years 1909 through 1923. The Dodson Diversion Dam has been in continuous service since 1911 with regular inspections and normal maintenance. But after 92 years of operations, Dodson Dam is in critical need of repair. In 1998 MID applied for a grant and loan through the Montana Department of Natural Resources and Conservation's Renewable Resource Grant and Loan Program. In 1999, the Montana Legislature funded a $100,000 grant to study the dam, and a $2,274,950 loan for repairs and modifications.

The goal is to rehabilitate various components of the diversion structure including the bridge and concrete, replace timbers in the apron with concrete, and replace the crest gates with a rubber dam.



Drop One is the first of five large concrete drop structures at the lower end of the St. Mary Canal. The total fall of the five-drop structures is 214 feet before discharging into the North Fork Milk River.

The repairs and modifications to the dam will reduce ice jams, help bypass floodwater, and allow earlier spring diversions to Nelson Reservoir. Earlier spring diversions will enable MID to fill Nelson Reservoir before the piping plover, an endangered bird, nest along the shoreline later in the spring.

TD&H Engineering from Great Falls was hired with the Renewable Resource Grant funds to study the dam. The study concluded that the dam was in need of repair, but structurally sound. This enabled MID to proceed with plans to repair and modify the dam.

In June, MID advertised for bids. Sletten Construction Company was awarded the contract and work started on August 1st, and will be completed before spring diversions begin.

Reducing Salinity of Bowdoin Wildlife Refuge

By Mike Dailey

Any negotiated settlement of the reserved water rights of Bowdoin Wildlife Refuge must reduce Bowdoin's high salt problem. Studies conducted by the United States Geological Survey (USGS) showed that the salt concentrations could be lowered if the refuge was converted from a closed basin with no outflow to a basin that flows water from the refuge. One option being examined would divert up to 14,000 acre-feet per year of Milk River Project water to the refuge, and discharge the water into Beaver Creek, keeping in mind the need not to harm downstream water users.

Presently, nearly 9,000 tons of salt are produced annually in the refuge. This occurs as the current inflow of water to the refuge roughly equals the water that evaporates from the reservoir surface and transpires from the plants within the refuge. The salt concentration is about nine times higher than the State standards for point source discharges during the irrigation season, and four and half times higher in the non-irrigation season.

During most of the year, the refuge is not allowed to release water. So the United States Fish and Wildlife Service (USFWS) diverts the salty water into Dry Lake where the water evaporates, and the salt is carried away by wind. This practice has met with ardent objections from down-wind landowners.

To better understand the salinity problem, salt concentrations are being measured at sixteen new sites on the Milk River mainstem between Dodson Dam and Vandalia Dam, on Milk River tributaries, in Lake Bowdoin and in a number of drainage ditches, and canals. These data will supplement salinity data that has already been collected by the USFWS, USGS, and Department of Environmental Quality. All of these data will be used to establish a baseline condition and to identify the best option to reduce the salt load within the Wildlife Refuge. This option will be included in the reserved water rights settlement.

For more information on the monitoring program, please contact Mike Dailey in the DNRC Water Resources Glasgow Regional Office at (406) 228-2561, or Stan Jones in the Reserved Water Rights Compact Commission office in Helena at (406) 444-1270.

A tractor tire serves as a temporary repair to suppress spray from a leak in the left barrel of the St. Mary Siphon.

Milk River Water Supplies are Declining

By Jeremy Giovando

Deliveries of water from the Milk River project are almost completed. Fresno Reservoir was reduced to winter releases on September 10. The end-of-month storage for Fresno was higher than anticipated because cooler weather in the latter part of August reduced irrigation demands. Releases from Fresno were maintained relatively constant throughout the season due to a larger irrigation demand, especially in June and July. The expected end-of-September storage in Fresno is estimated at 27,000 acre-feet and 49,000 acre-feet in Nelson Reservoir.

In the St. Mary Basin, water supply conditions have not improved since July. The total August inflow into Lake Sherburne was 84 percent of normal. St. Mary River flow for August was 51 percent of normal at the international boundary. Releases from Lake Sherburne will be discontinued on September 17 followed by the St. Mary Canal diversion on September 18. Lake Sherburne storage will be about 8,000 acre-feet at the end of September.

Forecasted inflows for September into Sherburne and Fresno reservoirs are estimated at 84 and 60 percent of average, respectively. Storage in both facilities is below normal for this time of year. Nelson is currently eight feet from full, while Fresno is about twenty-four feet from full. Below average flow conditions are expected through the fall unless weather patterns change.

The Dodson Diversion Dam rehabilitation is underway and construction is scheduled to be finished before the next irrigation season. To minimize the impact on project operations, water was transferred into Nelson during August to help maintain the reservoir level.

Storage as of September 11

Reservoir	Storage (acre-feet)	% Normal	% Full
Lake Sherburne	7,900	41	12
Fresno	23,000	59	24
Nelson (active)	28,400	84	52

Concerns Raised with Fort Belknap Compact

By Brad Tilleman

"...In addition to funding for voluntary efficiency improvements and for water banking, mitigation measures authorized and funded as part of the Compact must mitigate at least to the level of 35,000 Acre-feet Per Year, or a larger amount on agreement by the Parties if information or improved modeling available at the time of completion of the Milk River Basin Regional Feasibility Study indicates that more is necessary for mitigation based on full development of the Tribal Water Right on the Milk River and tributary protection as contemplated in Section A.1. of Article III..."

~ Article VI, Section B of the Fort Belknap Compact

We have multiple threats to our water supply on the Milk River. We face chronic water shortages compounded by frequent droughts, potential Canadian development, and a failing irrigation project that no one will take responsibility for. We also have another strain on our project: the Reserved Water Rights Compact Commission's (RWRCC) approach to the Fort Belknap Compact.

As part of the Fort Belknap Compact settlement, the Tribes agreed to subordinate their call on tributary water under the condition that it would be made up from the Milk River Project. To mitigate the impact to Milk River Project water users, the Compact states that mitigation will take place at a minimum of 35,000 acre-feet per year, in addition to efficiency improvements and water banking. Anyone familiar with the Milk River Basin water supply can quickly see that very seldom is there an extra 35,000 acre-feet. Therefore, the only real mitigation alternative is to bring in additional water from outside the basin.

When the Compact was signed into law in 2001, the RWRCC began backpedaling before the ink was dry. The term "wet water" became the newest buzzword. Suddenly, the State and Federal teams began wrangling with the definition of 35,000 acre-feet per year. Milk River irrigators never gave thought to the definition other than naively assuming it referred to additional water that was previously unavailable. The State is only looking at two wet-water options amounting to18,000 acre-feet per year (USBR estimates 16,000 acre-feet in their Feasibility Study). One is a 50 cfs pumping station in the Milk River at Nelson Reservoir; and the other is enlarging the Dodson South Canal, which feeds Nelson. The RWRCC is trying to pedal efficiency improvements, land retirements, and CRP styled programs as mitigation alternatives to make up for the rest of the water, which would force us to do less with less even though the Compact clearly states that conservation measures are voluntary, and in addition to the 35,000 acre-feet per year. Water conservation is a good thing, but not as a mitigation alternative. It like squeezing water out of a damp washrag that has been through the wringer – you can squeeze all you want, but nothing will come out. We simply need more water in the basin.

This year is considered an average water supply year and it provides a perfect example of how the Compact would hurt us. We started the irrigation season with full reservoirs and excellent spring moisture, followed by hot and dry weather in July and August. By the end of August, irrigation pools in Nelson and Fresno reservoirs will be depleted with below average carry-over storage expected. If the Tribes developed their water right as defined in the Compact, most of the spring runoff would be theirs. Furthermore, minimum pools would be required in Fresno to assure a municipal water supply.

After three years of drought, we really needed a good year. The RWRCC's own data showed that in average years like this, we hurt the most. We received three irrigations this year, but had the Compact been implemented, we would have received, at best, two marginal irrigations.

According to the RWRCC, their intent was to leave the Milk River Project "whole". Even if the full 35,000 acre-feet per year mitigation took place, we will not remain whole. We will still be stuck paying the entire Milk River Project O&M bill while managing the Project to meet the needs of tributary and Tribal water users. We simply need additional water, and the only practical way to gain it is through improvements on the Saint Mary diversion and canal system that feeds new water into the Milk River.

The RWRCC and USBR people appear to disagree on the numbers. For example, the State claims that the Dodson South Canal enlargement will cost about $1 million and provide 13,000 acre-feet annually. USBR claims it will cost five times as much and would provide only 6,900 acre-feet annually. Why enlarge a 46-mile canal that can only catch spotty runoff, and would benefit primarily the lower part of the project? Would it not be better to enlarge the 29-mile Saint Mary Canal that diverts the more reliable flows of St. Mary River, which in turn benefits the entire project? It's time to pursue real solutions and come up with real costs.

I encourage all Milk River basin water users to carefully read the Compact, especially Article VI, Section B, Mitigation of Impacts on the Milk River Project. It is short and written in plain English. What is in the Compact and what the RWRCC is saying today is not the same story. Everyone needs to become more involved with water decisions in our basin.

Fort Belknap Compact on the Web: http://www.dnrc.state.mt.us/rwrcc/index.htm

RWRCC Response to Mr. Tilleman's Letter on State's Approach to Fort Belknap Compact.

By Reserved Water Rights Compact staff

The Reserved Water Rights Compact Commission (RWRCC) would like to take this opportunity to respond to Mr. Tilleman's letter concerning the State's approach to the Fort Belknap Compact. Mr. Tilleman appears to have two primary issues with the State's activities regarding the Fort Belknap Compact. First, the St. Mary Canal Project should be a priority and no one seems to be minding the store from the State side, i.e. the RWRCC. Second, the RWRCC is trying to "backpedal" out of the 35,000 acre-feet of mitigation requirement in the Compact.

The St. Mary Canal is a Priority

The RWRCC agrees that rehabilitation of the St. Mary Canal Project should be a priority for the State and the Bureau of Reclamation (BOR). We recognize that the Basin and the Compact depend on a viable St. Mary's and improvements on the Milk River Project are pointless if there is no water to run through the system. The RWRCC also recognizes that the need for rehabilitation of St. Mary's has reached the critical stage and cannot be postponed any longer. For this reason, the RWRCC sent a letter in August to BOR Commissioner Keyes indicating the same and requesting immediate action. Contrary to popular belief, however, the rehabilitation of St. Mary's is not under the control of the RWRCC, and the RWRCC cannot wave a magic wand to make the requisite funding appear. The rehabilitation of the federally owned Project requires coordinated State, federal, and local efforts, especially from those groups directly benefiting from the Project. If any of these three are not present, the rehabilitation effort will likely struggle along as it has in the past. The RWRCC is actively working with the Department of Natural Resources and Conservation (DNRC) and the Governor's Office for the State (through DNRC) to spearhead an effort to rehabilitate St. Mary's before it fails. The State's efforts will not be effective, however, unless the entire local community provides organized support to show the BOR that the rehabilitation is an absolute and immediate necessity.

Fort Belknap Compact 35,000 Acre-Feet Mitigation Requirement

The RWRCC recognizes and agrees that the State has an obligation to mitigate 35,000 acre-feet of water in the Milk River Project under the terms of the Fort Belknap Compact. It further recognizes that this requirement is separate from its obligation to fund the Watershed Improvement Trusts established by the Compact for short-term water banking, conservation, and improved efficiencies. In discussing the 35,000 acre feet requirement, however, it is important to understand its meaning.

The 35,000 acre-feet requirement was derived by an approximation of the impact of the Tribes' full development of its water rights based on a computer model using the six worst years of record. The 35,000 acre-feet requirement is for mitigation of the Tribes' development and not mitigation of naturally occurring shortages. The mitigation is intended to keep the Basin "whole" from the Tribes' development, not whole to the extent there is an amount of water to meet everyone's ideal wants or provide more than was previously available. The fact of the matter is that there isn't and never will be enough water to satisfy everyone. However, without the Compact, the non-Tribal Basin users would probably be worse off because the Tribes hold senior rights and there wouldn't be an obligation for the State or federal governments to provide any mitigation. This being said, the RWRCC recognizes its obligation.

The RWRCC consistently represented to the public that it would focus on in-Basin options for mitigation. Mitigation measures will make use of water that previously went unused in the Basin and ways to decrease demand on available water. The RWRCC made the point that it was looking to in-Basin mitigation alternatives, as opposed to interbasin importation, on numerous occasions during the Compact negotiations. The primary reasons for looking for in-Basin alternatives are the astronomical costs and environmental problems associated with interbasin alternatives. When added to the cost of the must-have rehabilitation of St. Mary's, the importation alternatives are even less financially feasible. As for new water to be made available by a St. Mary's rehabilitation, there is no consensus that there will be any. The presence of such water for mitigation purposes is at best uncertain.

The RWRCC is currently looking at options for the mitigation required by the Compact and is open to any ideas that the public may have on possible projects. The RWRCC had a study prepared on its behalf to analyze certain potential mitigation options. Due to funding restrictions, the RWRCC could only have its contractors review those projects that appear to offer the best options for mitigation. These options were the enlargement of Dodson South Canal, the Nelson Pump-Lift, and the enlargement of Nelson Reservoir through construction of another dike. The RWRCC had hoped to have its contractors review BOR designs for the enlargement of Fresno Reservoir but the designs were not available. From our analysis of possible mitigation measures, the enlargement of Dodson South Canal and the Nelson Pump-Lift were the most promising. The RWRCC recently received some BOR information on enlarging Fresno and believes that it may also be a viable mitigation alternative. These alternatives represent an amount of mitigation in the six worst years of record of approximately 20,000 acre-feet of water, as modeled by

(Response continued on page 6)

(Response continued from page 5)

RWRCC with cooperation from BOR. In other years, they provide greater benefit to the Basin. The RWRCC recognizes that this leaves a shortfall of 15,000 acre-feet in record low years if the Tribes fully develop their water rights and that this shortfall must be addressed. The RWRCC is working to find a solution to this problem.

As for the costs of particular mitigation projects, the goal of the cost-share negotiations will be to draw the two sides together to mutually acceptable projects and funding. The RWRCC has not seen the BOR's final study and cannot comment on those costs.

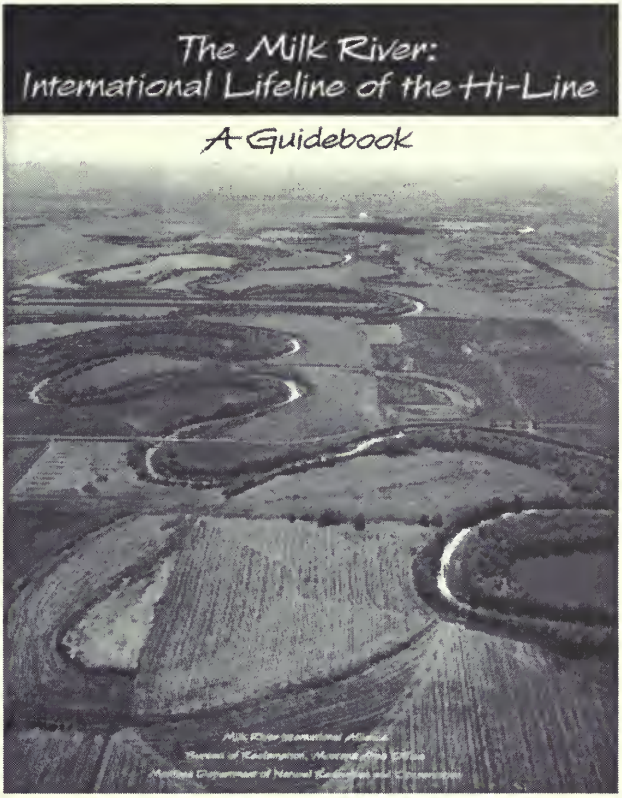
The RWRCC realizes that a great deal of work remains to be done. The RWRCC has been working to investigate mitigation options. The time for developing the cost-share and mitigation measures for the Compact has come, and we are committed to developing a mitigation package that is beneficial to and supportable by the local communities. After all, a cost-share package must be approved by the Montana Legislature and Congress. In these times of severe budget crises, it is more important than ever that projects presented to the Montana Legislature and Congress have strong support from the public. We have been working in the Basin for 15 years to resolve difficult water allocation issues and will continue to do so in the future.

Bob Larson, Manager for the Glasgow and Havre DNRC Water Resources Regional Offices stands on top of the right barrel of the St. Mary Siphon.

The Hall's Coulee Siphon is eight miles below the St. Mary Siphon. Hall's Coulee Siphon is a two-barrel steel plate siphon, 78 inches in diameter and 1,405 feet long.

COORDINATOR'S CORNER

By Jim Thompson



The Milk River International Alliance, with assistance from the Natural Resource Conservation Service completed a Rapid Aerial Assessment of the Milk River in late May. We used a helicopter to record the information from the mouth of the Milk River to Fresno Dam. The helicopter flew at a low elevation to allow the crew to use the latest technology (video, GPS) to identify, compile, and map river corridor information. The data will be analyzed and ready for use by river managers in the spring of 2004. I plan to meet with each Conservation District (Blaine, Hill, Valley, Phillips, and Liberty), the Joint Board of Control, and the Tribes to present and discuss the information. The results will also be available to the general public.

The Alliance is also preparing a report on the work completed to date in the basin with the goal of having it finalized by early spring 2004. We hope to organize another tour of the basin for local residents, and to work with schools to conduct a Watershed Festival.

I stopped to visit a friend who raises geese along the Milk River the other day and he looked pretty chipper. He was wondering, with all my college studies, if I could tell a male fish from a female fish. Sensing that I was being set up, I cautiously said, "It depends" and then asked why the interest? He excitedly explained that a couple of Bull Trout somehow got into his new goose pond. If they're male and female and raise young ones he said, "why heck, the way the Federal Government spends millions protecting them, I could run this place as a bull trout fish hatchery, and I figure within a year I'll have enough money to rebuild the entire Milk River irrigation system, but first I'll have to enlarge my goose pond, and soon! By the way, look at those funny little birds nesting on the shore, do you know what they are?"

"Well," I said, "I hate to burst your bubble, but those are piping plover."
"What do you mean?" he said.
"I mean, you won't be enlarging that goose pond any time soon."
I drove home that day feeling sorry for my friend, and wondering what piping plovers eat.

A reminder: The Milk River Guide Book is still being distributed. If you would like a copy, visit your Conservation District office or call or email me.
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DNRC—WATER RESOURCES DIVISION
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Rehabilitation of St. Mary Facilities Moving Forward

by Rich Moy

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Havre Mayor Bob Rice opened the meeting by welcoming everyone and stating that the rehabilitation of the St. Mary project is critical for the livelihood of the people that reside in the Milk River basin.

Lt. Governor Karl Ohs, who chaired the meeting, stated, "The St. Mary system is the 'keystone' for the Milk River Irrigation Project. It is the lifeline of the Hi-Line." He noted that he grew up near Malta and that the Milk River Irrigation Project was crucial to the operations of his family's ranch. He stated, "Today, we need to find solutions. We simply cannot let the canal system fail. We need to build a partnership between local water users and the state and federal governments, and we need to find a workable solution. We must be able to implement the solution, and it must be reasonable and responsible. This is a historic opportunity, but it is not a free opportunity."

Maryanne Bach, director of the U.S. Bureau of Reclamation (USBR) High Plains Region, followed and informed the audience that the Secretary of the Interior has recently sent a letter to Governor Martz requesting to meet with the Lt. Governor, the Montana Department of Natural Resources and Conservation (DNRC), and the commissioner of the Bureau of Reclamation on this issue. Bach told the audience that the bureau would keep the project operational in the interim, before the rehabilitation occurs. She stated, "The irrigators must bear a significant portion of the cost for rehabilitating the facilities. There is no pot of gold or silver bullet to rehabilitate the project, but we all must use the best means available to solve this problem. From here on, the bureau will join in the dialogue to chart a course to address the short- and long-term issues with the St. Mary Facilities." She said that the adjudication of water rights in the Milk River basin is a critical component of this issue and that it must be completed to ensure that the beneficiaries of project waters receive their entitlements.

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of water resources of the Blackfeet Nation; and Randy Perez, the water policy director for the Fort Belknap Community Council.

Tweeten explained why the Reserved Water Rights Compact Commission was created and talked about its successes in negotiating reserved water right compacts in Montana. He stated, "We try to satisfy the needs of Indian tribes and federal agencies, but, at the same time, protect existing water users from harm as best as we can."

Tatsey read a prepared statement from the Blackfeet chairperson. He stated, "The St. Mary Facilities are a significant issue of concern to the Blackfeet, and a number of issues will have to be addressed before the tribe will support rehabilitation of the facilities."

Tatsey told the audience that the tribe has substantial water rights that cannot be ignored. He said that the canal cannot be rehabilitated and no new state appropriative water rights can be issued on the reservation until the Blackfeet water rights are settled. He said that the federal government promised the tribe that it would benefit from the project, but that has not happened. He said the tribe still wants benefits from a rehabilitated St. Mary Facilities and would like to be viewed as a direct partner in the project and its rehabilitation.

Tatsey identified a number of environmental issues that must be addressed with the rehabilitation of the St. Mary Facilities. He felt that the high releases from Sherburne Dam have damaged Swiftcurrent Creek and caused increased siltation into St. Mary Lake. He noted that Swiftcurrent Creek sometimes goes dry. He also identified the problems with leakage from the canal. He felt that the tribe would oppose fencing of the canal. Tatsey said that the tribe wants the state and federal governments to abide by local tribal law in rehabilitating the project. This includes hiring local tribal members for the rehabilitation and paying a construction fee to the tribe.

Lt. Governor Karl Ohs and Randy Reed at the Havre meeting on rehabilitating the St. Mary Facilities .

Randy Perez opened his remarks by saying that, even though the Fort Belknap Compact was signed in 2001, there are a number of water right issues that still need to be solved, and a lot of work is left to do. He noted that the Fort Belknap Irrigation Project is 100 years old and needs rehabilitation. He also felt that the tribes need a new storage project.

Paul Azevedo, water resource planner for DNRC and the state coordinator for this project, described the draft planning approach for pursuing rehabilitation of the St. Mary Facilities and the role and function of the Rehabilitation Working Group. (Paul's presentation begins on page 3.)

Kay Blatter, the chairman of the Milk River Joint Board of Control, talked about the planning approach. He stated that the irrigation project water users have been putting $500,000 each year into the operation and maintenance of the project. He stated that we need to seek help from everyone in the basin. He said that we need to lobby Congress and be committed to serve and support the working group in completing the project. "Everyone will need to take an active role if the project is to succeed."

Randy Reed, chairman of the Milk River Project Development Association, followed. He described the role the association will need to play in moving the project forward. (His speech begins on page 5.)

Lt. Governor Ohs led the discussion after the presentations. He asked everyone, "Do you support our path? Do you have additional ideas?" Most commentators and people in the audience supported the draft planning approach for rehabilitating the St. Mary Facilities. T. Connaway, Phillips County Commissioner, said that Fresno Dam should be added to the planning strategy, as expanded storage in Fresno is needed.

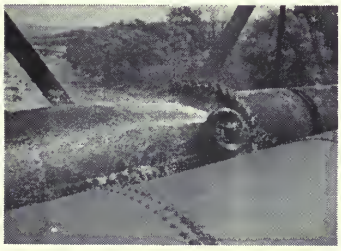
The Lifeline of the Hi-Line Needs Surgery

by John Tubbs

"Bypass" surgery was needed in 1999 to stabilize the St. Mary siphons. The hillside on the east side of the St. Mary River was saturated and unstable due to water leaking from the siphon tubes. Two sections of the buried siphon had buckled, and there were concerns that the siphon could fail entirely if left alone. In short, the Milk River water supply was threatened, and emergency repairs were required immediately.

Montana's Renewable Resource Grant Program provided funding for these essential repairs. Through the cooperation of the Chinook Division and the Glasgow Division of the Milk River Irrigation Districts, $218,000 in grants were transferred for the siphon repair. Subsequently, the Joint Board of Control applied for an additional $100,000 in May of 2000 to add to the earlier funds to complete the repairs.

Milk River irrigators and USBR staff recognized the threat to their water supply



Leaking siphon.

Maryanne Bach, director of the High Plains Region of the U.S. Bureau of Reclamation, discusses the St. Mary rehabilitation.

if these siphons failed. DNRC and the State Legislature concurred. The two buckled sections of pipe were dug up, cut out, and replaced with new steel pipe. Hi-Line residents may recognize one of these sections of failed pipe. It has been traveling from Havre to Glasgow (and even down to Helena), showing Milk River residents and legislators where the water comes from.

What USBR employees found at the bottom of the pits they excavated to remove the buckled pipe answered some underlying questions of why the siphon was buckling. Water had eroded the bedding on which the siphon rested, and the saturated slopes added to the problem. The focus quickly became the transition between the siphon and the canal.

The siphon was literally backing out of the concrete vault that connects it to the canal system. The weight of the steel siphon was pulling it down the hill and away from the canal. Based on this new information, the Joint Board of Control requested an emergency change to its grant contract to grout the transition and secure the siphon. The request was approved after a field visit in the fall of 2001.

Use of the $318,000 coupled with over $200,000 in irrigation assessments for these repairs has stabilized these important structures. A $100,000 grant approved by the 2003 Legislature will be used to patch additional leaks and to replace expansion joints that no longer work. However, these repairs are Band-Aids© on infrastructure that has reached the end of its useful life. The repairs were essential to protect against immediate failure, but they are not long-term fixes.

At the November 18 meeting called by Lt. Governor Ohs, U.S. Bureau of Reclamation officials stated that the project does not face immediate failure; however, they cannot guarantee that the structures will be in operation 10 years from now. Lt. Governor Ohs called for action now. Milk River water users cannot afford to wait to get started. Now is the time to take on this project and pursue the rehabilitation of the St. Mary diversion facilities to ensure a water supply for the Milk River over the next 100 years.

Montana's Approach to Rehabilitate the St. Mary Facilities

by Paul Azevedo

A three-stage planning approach is proposed for rehabilitating the St. Mary Facilities, and the approach is based on the following assumptions.

- The infrastructure of the St. Mary Facilities is deteriorating and may soon fail.
- Rehabilitation of the St. Mary Facilities is a high priority for Montana. Failure of the system would have a significant impact on the economy of the Hi-Line region and the state in general.
- A partnership between basin water users (irrigation, municipal, recreation, fisheries, etc.), state government, tribal government, and the federal government is the most promising course of action.

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Montana's Approach . . . continued from page 3

- Milk River basin residents must become an integral part of the process.
- Securing Congressional authorization and funding for rehabilitation of the system will require basin water users (irrigation, municipal, recreation, fisheries, etc.) to unite behind and actively support the planning process.
- Resolving differences with interpretation of the 1921 International Joint Commission (IJC) Order on apportioning flows of the St. Mary and Milk rivers and tributaries is a critical issue affecting rehabilitation of the St. Mary Facilities. State officials will address this issue through a separate process.

Planning Approach

Stage One. Focus on organizing and coordinating the state and local resources required to implement the project. Lt. Governor Ohs will form and chair a St. Mary Rehabilitation Working Group. The working group will be tasked with providing advice and guidance to the governor on the best strategy for rehabilitating the St. Mary Facilities. The Department of Natural Resources and Conservation (DNRC) will provide staffing and technical support.

The state will attempt to obtain all technical information pertaining to the rehabilitation of the St. Mary Facilities collected by USBR as part of its regional feasibility study completed under the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999.

The state will also seek USBR assistance in drafting Congressional legislation for seeking authorization and funding for completing a feasibility study on the rehabilitation of the St. Mary Facilities. Funding must be sufficient to complete a final engineering report (including value engineering), National Environmental Policy Act (NEPA) compliance documentation (environmental assessment or environmental impact statement), and cultural resources survey for the entire project. The authorization will need to be flexible enough to allow the study to be completed by an engineering firm under contract to the State of Montana and/or basin water users.

Stage Two. Secure federal funding for the feasibility study. The working group will be required to work closely with Montana's Congressional delegation to move the proposed legislation through both the House and Senate. Congressman Rehberg will carry the legislation in the House, and Senator Burns will carry it in the Senate.

Stage Three. Secure federal authorization and funding to design and construct the preferred alternative. This stage will begin midway through the feasibility study. Funds will be used to rehabilitate the St. Mary Facilities and address environmental requirements and mitigation. The working group will need to work closely with Montana's Congressional delegation.

Guidelines

The Lt. Governor's Office and DNRC have also developed a preliminary set of guiding principles. These guidelines include:

- Involve all stakeholders, including local water users (irrigation, municipal, business, recreation, fisheries, etc.), state government, the Montana Congressional delegation, the Blackfeet Tribe, the Ft. Belknap Indian Community, the USBR, and the U.S. Fish and Wildlife Service.
- Address environmental requirements, including those associated with the threatened bull trout.
- Coordinate with the Montana Reserved Water Rights Compact Commission on reserved water right issues.
- Develop an appropriate cost-share arrangement between local water users, state government, and federal government.
- Monitor completion of the engineering alternatives study, NEPA compliance documentation, and cultural resources survey.
- Monitor construction of the preferred alternative for rehabilitation.
- Adhere to provisions in the 1909 Boundary Waters Treaty regarding the apportionment of flows on the St. Mary and Milk rivers and tributaries.

Montana's Approach . . . continued on page 5

Montana's Approach . . continued from page 4

St. Mary Rehabilitation Working Group Responsibilities

The mission of the St. Mary Rehabilitation Working Group is to develop and implement a workable solution to rehabilitate the St. Mary Facilities before the system suffers catastrophic failure. A workable solution does not mean a perfect solution, and it does not mean a solution with which every interest is 100 percent satisfied. A workable solution is one that can be implemented by the parties involved because those parties feel that, on balance, the solution is reasonable, sensible, and responsible. The working group will have the following responsibilities:

- Incorporate basin residents' concerns into the planning process to the maximum extent possible.
- Spearhead and organize support of basin residents for the planning and implementation process.
- Keep their constituencies informed and up-to-date on the planning and implementation process.
- Work with the Montana Congressional delegation to determine the best mechanism to fund a feasibility study analyzing the engineering alternatives, NEPA compliance documentation, and cultural resources survey for the rehabilitation of the St. Mary Facilities sufficient to take before Congress for construction authorization and funding.
- Work with the Inter-Agency Rehabilitation Team to review all cost figures and provide recommendations to the Governor's Office on the preferred alternative for rehabilitating the St. Mary Facilities.
- Work with the Montana Congressional delegation to seek Congressional authorization and funding to design and construct the preferred alternative for rehabilitating the St. Mary Facilities.
- Develop options for cost-share arrangements among local water users (irrigation, municipal, recreation, fisheries, etc.), state government, and federal government.
- Coordinate with the Montana Reserved Water Rights Compact Commission on reserved water right issues.

Participation on St. Mary Rehabilitation Working Group

To the maximum extent possible, the St. Mary Rehabilitation Working Group should include participation from the following potentially affected interests.

- State of Montana, Lt. Governor Karl Ohs, Chair
- Irrigated agriculture
- Blackfeet Tribe
- Ft. Belknap Reservation Indian Community
- Recreation
- Environment / fisheries
- Business
- Municipalities
- Montana Department of Natural Resources and Conservation
- Montana Congressional delegation
- U.S. Bureau of Reclamation

Association Focuses on St. Mary Rehabilitation

by Randy Reed, Chairman

The following comments were presented at the Lt. Governor's St. Mary Rehabilitation Meeting in Havre on Nov. 18, 2003.

On behalf of the Milk River Project Development Association, I'd like to thank all of those who have participated in this forum, which has been focused on the future of the Milk River basin. I also would like to express my appreciation to Lieutenant Governor Ohs for extending this opportunity for me to make a few remarks concerning the association and some of the potential opportunities for our future in the Milk.

The Milk River Project Development Association is a group of individuals from all walks of life that reside and have an interest in the future of the Milk River basin.

We must come together as the community of water uses to rehabilitate the St. Mary Canal and Fresno Reservoir. We are all beneficiaries of the project, whether we irrigate crops, water lawns, drink water from a tap, or enjoy recreational opportunities around the project area. While we all have different interests,

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there is one thing that we can all agree upon, and that is this: we need a reliable Milk River Project if we want people to continue to enjoy our lifestyles in north-central Montana. The Milk River Project is the centerpiece in our regional economy, and without it there is no future.

Water has always been important to those who call the Milk River basin home. Our forefathers who settled in the area recognized the importance of a reliable water supply as a means of economic stability for the area. And, because the Milk had such erratic flows and often would dry up during the hot summer months, they recognized the need to find a more reliable water supply.

Early investigations at the end of the 19th century pointed to the importation of water from the St. Mary River as a means of stabilizing both the water supply and the economic prospects of the Milk River basin.

The St. Mary Canal, constructed in the early 1900s, has played an important role in the history of the Milk River over the past 100 years and is key to our future. During more normal water years, approximately 70 percent of the water supply used by all residents of the Milk River basin is imported from the St. Mary River and is conveyed through the St. Mary Canal. In drought years, such as those we are currently experiencing, most of our available water supply, up to 97 percent, is imported through the St. Mary Canal.

The St. Mary Canal, which is 29 miles in length, is a major piece of infrastructure that includes a diversion dam, miles of open canal, two sets of inverted steel siphons, and several drop structures. The canal has served us well over its life, but is showing signs of its age.

Over the past several years, events have occurred that caused the canal to be shut down for extended periods during the irrigation season, while emergency repairs were made to keep the canal functional. Recent events include landslides that occur as a result of unstable hillsides and heavy rains, deterioration of one of the drop structures, and the near failure of the St. Mary siphon.

Congress authorized the Milk River Project as a single purpose irrigation project. However, the Milk River Project serves more than just the irrigation community. The project serves the municipalities of Havre, Chinook, and Harlem and others along the Hi-Line. Recreationists use the project reservoirs for fishing, waterskiing, and other water recreational activities. Hunters enjoy the pursuit of white-tailed deer and pheasants that thrive in the Milk River Valley habitat.

Our regional economy is tied to the project—people need water to live here. In short, while the Milk River Project was originally constructed for irrigated agriculture, it has grown into a water supply for all of us in north-central Montana.

As the congressionally authorized beneficiaries, irrigators have been responsible for the majority of the operation and maintenance costs of the project. Over time, the irrigators have funded the normal maintenance needs of the St. Mary Canal and related structures.

However, the time has arrived when normal maintenance is no longer sufficient to ensure the long-term reliability of the basin's most reliable water source. What is needed is the rehabilitation of the St. Mary Canal. Without the St. Mary Canal, we will not be able to sustain our way of life, and any potential opportunities for economic growth in the future will be lost forever.

The time to act is now. We must band together as a community of beneficiaries of the Milk River Project.

I visited with Commissioner Keyes of the Bureau of Reclamation this past summer at the Water 2025 meeting in Billings, and he made it very clear to me that, if the rehabilitation of the St. Mary Canal happens, it must be locally driven. No one is going to do it for us. Irrigators cannot pull this off. We need the support and active participation of the entire Hi-Line community. Whether our interest is fishing in one of the reservoirs, operating a business, or growing alfalfa, we must all act together. The Milk River Project is truly our community's water supply.

The future success of the communities of northcentral Montana relies on a functioning Milk River Project. If we want people to remain here and to have the potential for future development, we must have a reliable Milk River Project delivering water for generations to come.

We are at a crossroad in the Milk River Project. The St. Mary Facilities are nearing failure, and concrete patches will not suffice. We must form a partnership with the Bureau of Reclamation, the State of Montana, county governments, and the local community and move forward now.

We need to move from simply being concerned to taking action.

- We need to immediately work with the Bureau of Reclamation, the state, and our elected representatives to draft federal legislation for the completion of the Northcentral Montana Regional Feasibility Study. This includes completing engineering analysis, compliance with environmental laws and regulations, and economic and financial analysis.

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- Completion of the feasibility study will allow us to move forward with legislation for construction authorization of the rehabilitation of St. Mary Canal and Fresno Reservoir. The authorization may need to seek inclusion in the Pick-Sloan Act to make the current project more multipurpose and spread the costs of operation.

- And, lastly, we need to seek a $100,000,000 appropriation from Congress and/or form a Milk River Project Trust to do portions of the rehabilitation. The trust could be formed in a way where only the interest can be spent for the rehabilitation. With a trust, the local community would be responsible for ensuring the long-term viability of the project. The local community could develop a long-term plan and conduct repairs over time using the interest and never the principal. Also, the trust could have a loan and grant program to help rehabilitate structures around the project, like irrigation siphons and boat docks, or help a local business that wants to locate here.

In closing, the Milk River Project is the centerpiece in our regional economy, and this vital piece is hanging by a thread. We must band together and fix this failing infrastructure. We must insure a future for our children.

I would like to thank you all for coming. And I would like to thank the lt. governor for his interest in preventing catastrophic failure from occurring within the Milk River Project.

Folks from all over the Milk River basin attended the St. Mary rehabilitation meeting in Havre.

A member of the audience asks the panel a question on the rehabilitation of the St. Mary Facilities.

Lt. Governor Karl Ohs presents opening remarks at the St. Mary rehabilitation meeting in Havre.

Chris Tweeten, chair of the Reserved Water Rights Compact Commission; Anne Yates, DNRC attorney; Paul Azevedo, state coordinator for the St. Mary rehabilitation; and Kay Blatter, chair of the Milk River Joint Board of Control.

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Milk River Watershed News
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Siphon photo on page 3 by Mike Dailey. All other photos used are by Rich Moy.

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MILK RIVER WATERSHED NEWS

DNRC—WATER RESOURCES DIVISION
P.O. BOX 201601
HELENA, MT 59620-1601

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SPRING 2004
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International Joint Commission to Consult with Public on St. Mary-Milk Apportionment

by the International Joint Commission

Disagreements in the early 1900s over sharing water in the St. Mary and Milk rivers were an important factor leading to the Boundary Waters Treaty of 1909. Article VI of the treaty addressed this issue. In undertaking its duties of apportioning the water, the International Joint Commission (IJC) held public hearings between 1915 and 1921 to hear all parties with an interest in the matter. After careful consideration of all the arguments, the IJC issued an Order on October 4, 1921, which directed how the measurement and apportionment of these waters would take place.

Within the past year and a half, the IJC received a letter from the State of Montana requesting that the IJC review its 1921 Order and also received correspondence regarding this matter from the Provinces of Alberta and Saskatchewan. This correspondence and other information raise several issues regarding water use, apportionment, and planned water projects in the St. Mary and Milk River basins. In order to gather additional information regarding this situation, and to help the commissioners decide how best to proceed on all of the matters that have been raised in light of its responsibilities under the treaty, the IJC has decided to hold a series of public consultations in the area. The IJC is interested in gathering facts on water supplies in the basin, current and projected water uses, and any matters related to the current implementation of the 1921 Order. The consultations will be held the last week of July 2004. For information on the times and locations, visit the IJC's website at www.ijc.org or contact Frank Bevacqua at (202) 736-9024.

Senator Burns Requests Meeting with IJC.

In April 2003, Senator Burns informed the Honorable Michael Kergin, Canadian Ambassador to the United States, that he would like a meeting with Governor Martz, the IJC, and appropriate Canadian officials to determine how to resolve the issues associated with the 1921 IJC Order. Michael Kergin responded in May, stating that "the IJC will be holding information meetings in both countries at the end of July to help them determine what, if any, additional steps might be needed" with regard to the 1921 IJC Order.

Doing What's Right for the Milk River

by Max Baucus, U.S. Senator

It goes without saying that the Milk River is vital to north central Montana and supports an economy that is important to the entire state. But the issues that affect the stability and flows of this river system are incredibly complicated.

This river, which begins with the St. Mary diversion system, was developed more than 85 years ago for irrigation. Most Montanans along the Hi-Line recognize that the St. Mary's system is a U.S. Bureau of Reclamation (BOR) project. However, many are unaware that

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irrigators along the river, not BOR, have stepped up to the plate to pay for operation and maintenance of this system since its inception.

Unfortunately, two things have happened that have led to the St. Mary's system falling into disrepair.

First, the St. Mary's diversion area is an old system that has not received the attention that it needs and deserves. The Bureau of Reclamation makes repairs and improvements only if irrigators agree to foot the bill. After 85 years of use and consecutive years of drought, local resources are scarce.

Additionally, the St. Mary's system is weak and inefficient. This is extremely troubling. As I have said many times before, water is the gold of the West. And, the Milk River is truly the "Lifeline of the Hi-Line." This system must be rehabilitated to ensure regular flows as well as improve the volume of water. We all watched the Milk River dwindle to devastatingly low flows two summers ago. The drought was a significant contributing factor, but an inefficient system was also to blame.

Irrigators are not the only ones who are concerned about low flows on the Milk River. Montana's northern towns and

Photo submitted by Max Baucus

Senator Max Baucus

communities, recreationists, and fish and wildlife are also dependent on a reliable river system. We should examine the status quo that currently holds the irrigators responsible for 100 percent of system improvements.

The BOR is primarily responsible for managing the St. Mary's system. In response to issues relating to Tribal water compacts, Congress appropriated $3 million to study the St. Mary's and Milk River system two years ago. While many have requested a copy of that study, BOR has refused to allow any public access to the report until the federal Office of Management and Budget has completed its analysis. I find this current state of affairs extremely frustrating, and I know it has been difficult for all of the water users and the State of Montana.

I have directed my staff to work with Lt. Governor Ohs and the Milk River Working Group. My staff have attended public meetings, met with BOR personnel, and led discussions with water users, as well as worked with the state on a $9.5 million appropriation request for fiscal year 2005. In short, I'm looking at any and all ways to help the state, the irrigators, the Blackfeet and Ft. Belknap Tribes, and other interested parties rehabilitate and revitalize the St. Mary's system. The local and regional economy depends on it.

I'm committed to doing whatever I can to secure the funds needed to improve the St. Mary's system. And you can bet that I'll work together with Senator Burns, Congressman Rehberg, and the state officials to find a common-sense solution.

Editor's Note: Max Baucus is Montana's senior U.S. Senator, the highest ranking Democrat on the Senate Finance Committee, and a senior member of the Environment and Public Works Committee, which has jurisdiction over many of the nation's water projects.

Governor Martz Identifies Reasons to Review 1921 IJC Order

by Rich Moy, DNRC

In a letter to the International Joint Commission (IJC), Governor Martz identified three reasons to review the 1921 Order that apportions the flows of the St. Mary and Milk rivers.

As background, the IJC is responsible for implementing the provisions of the Boundary Waters Treaty. One of those provisions is Article VI, which apportions the flows of the Milk and St. Mary rivers. To implement Article VI, the IJC created the 1921 Order.

In April 2003, Martz requested the review of the Order in her letter to Dennis Schornack, the United States chair of the IJC. In response, Schornack and Herb Gray, the Canadian chair of the IJC, told Martz in November 2003 that they were considering her request and stated "that it would be helpful to know which portions of the 1921 Order are of concern to Montana." They also wanted to know what changes Montana would suggest in the Order.

Martz responded in January 2004 and identified three primary reasons why Montana would like the Order reviewed.

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She stated, "First, we do not feel the Order satisfies the language in the first paragraph of Article VI of the Treaty. Second, today's reality is significantly different than that foreseen in 1920, and the Order should reflect this reality. Third, there are problems with the administrative procedure that implements the Order."

" The 1921 IJC Order overlooks the key first sentence of the two-sentence paragraph of Article VI of the Treaty that defines the apportionment for the Milk and St. Mary rivers," said Martz. She stated that the three key provisions of this sentence are not being implemented. First, the St. Mary and Milk rivers are not being treated as one river. Second, this one river is not being apportioned equally between the two countries, and third, the IJC did not consider giving more water from one river to one country and more water from the other river to the other country to ensure a more beneficial use to each country.

Martz also identified how circumstances have changed since 1921. For example, she noted that the "United States projected that it could irrigate 220,000 acres in the Milk River basin of Montana from the combined St. Mary and Milk River flows, but today only about 140,000 acres are receiving about one-half of a full service supply." She stated further that the Milk irrigators are short of water in 6 years out of every 10 years.

Martz observed that the prior water rights of Native American Tribes in the United States were not known in 1920. Even though the United States Supreme Court recognized federally reserved water rights for Native Americans in 1908, the court did not define the full extent of these water rights until the 1970s. Native American Tribes on the Fort Belknap, Rocky Boy's, and Blackfeet Reservations have reserved water rights for water from the Milk and St. Mary River basins.

Martz concluded her letter by identifying a number of problems with the existing administrative procedures that are used to implement the 1921 Order.

In January 2004, Bennett Raley, Assistant Secretary with the U.S. Department of the Interior, informed Terry Bresse, Director of the Office of Canadian Affairs for the U.S. State Department, that the Interior Department supports Governor Martz's request to review the 1921 Order. Maryanne Bach, the Regional Director for the High Plains Region of the Bureau of Reclamation, which includes the Milk River Project, has been designated the key contact person for the Interior Department.

Reasons to Review the 1921 Order

by Rich Moy, DNRC

The 1909 Boundary Waters Treaty between the United States and Canada was negotiated in the early 1900s, in part over the diversion and use of St. Mary River water in the Milk River basin of Montana. The U.S. was building a diversion canal to transfer St. Mary River water into the Milk River. Concerned over losing St. Mary water, Canada began building what was called the "spite ditch" to recapture the St. Mary water from the Milk River and put it back into the St. Mary River. For this reason, Article VI of the Treaty apportions the flows of the Milk and St. Mary rivers and their tributaries.

Photo by Mike Dailey

Spilling at Dodson Dam this spring

The International Joint Commission (IJC) was created by the Treaty to resolve disputes between the two countries, and one of its first responsibilities was to come up with an order to implement the apportionment language found in Article VI of the Treaty. The IJC held numerous hearings between 1910 and 1921, and this issue became very contentious for the U.S. and Canada. The IJC finally agreed on an interpretation of the language of Article VI of the Treaty in its 1921 Order.

Based on a review of the Order, DNRC believes the IJC reached a compromise in 1921 that favored Canada for most of the past 83 years, especially in dry years. Therefore, the 1921 Order should be reviewed by IJC for the following reasons.

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(1) The Order has not been reviewed in 83 years. The U.S. tried to have the Order reviewed and revised in 1931, but was unsuccessful. Back then, the U.S. felt that the Order was unfair to the U.S., but Canada testified to preserve its language. Canada argued that not enough time had elapsed since the Order was established in 1921. Today, far more is known about the apportionment, conservation, hydrology, and water uses in the two basins.

(2) The review is timely. The U.S. and Montana are proposing to rehabilitate the St. Mary Canal and diversion works and to enlarge Fresno Reservoir. The rehabilitation could cost as much as $100 million, and a revised order is critical for determining the appropriate canal size, costs, and benefits. Further, Alberta is evaluating potential storage sites in the Milk River basin, and this information will help the province assess storage size, costs, and benefits.

(3) The Order does not address the language of the first paragraph of Article VI of the Treaty, which deals with the apportionment. The first sentence is practically ignored, and only the second sentence is implemented.

The first sentence of Article VI states three provisions. First, the St. Mary and Milk rivers are to be treated as "one stream." Second, this one stream is to be "apportioned equally" between the two countries. And third, in making this equal apportionment, "more than half [of the water] may be taken from one river and less than half from the other by either country so as to afford a more beneficial use to each [country]." In the 1921 Order, the two rivers are treated and apportioned separately; the apportionment is not equal, as Canada receives considerably more water; and the Order does not try to rebalance the apportionment to provide a more beneficial use to each country.

Only the second sentence is implemented. It states "that in the division of such waters during the irrigation season, between the 1st of April and 31st of October, inclusive, annually, the U.S. is entitled to a prior appropriation of 500 cfs of the waters of the Milk River or so much of such amount as constitutes three-fourths of its natural flow, and that Canada is entitled to a prior appropriation of 500 cfs of the waters of the St. Mary River, or so much of such amount as constitutes three-fourths of its natural flow."

The primary problem with this sentence is that the St. Mary River produces considerably more water with more reliable flows than the Milk River. The Milk River frequently goes dry during the summer, whereas the St. Mary River never goes dry. In the recent drought years, the annual volume of the St. Mary River can be 10 times greater than that of the Milk River. Lastly, the timing of runoff from the two rivers works against the U.S. The St. Mary River runoff occurs in late May and June, when Canada is entitled to the first 500 cfs or three-fourths of the flows, whereas the runoff in the Milk River can occur as early as March, when the flows must be shared equally between the two countries.

Photo by Mike Dailey

Flooding along the Milk River this spring

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(4) The Order gives the U.S. considerably less than 50 percent of the combined flows. Even though the Treaty gives the U.S. 50 percent of the combined flows, the U.S. actually receives an average of about 40 percent of the combined flows of the St. Mary and Milk rivers, and Canada receives about 60 percent. During dry years, the U.S. receives even less, about 35 percent, and Canada receives about 65 percent.

For example, in the dry year of 2000-2001, the U.S. was entitled to 40 percent of the combined flows of the St. Mary and Milk rivers under the 1921 Order, but was able to receive only 36 percent, while Canada was entitled to 60 percent and received 64 percent.

(5) Today's reality is far different than that anticipated in 1921. A number of these differences that were not anticipated in 1921 are described below.

The senior water rights of Native American Tribes in the U.S. were not known in 1921. Even though federally reserved water rights of Native Americans were recognized, the amount of water to which Tribes were entitled was not established until the 1970s, when the U.S. Supreme Court defined a quantification standard. The Tribes on the Fort Belkap Reservation have reserved water rights with an 1855 priority date for the first 645 cfs of the Milk River during the irrigation season. The Blackfeet Tribes claim water rights with an 1855 priority date from the St. Mary and Milk rivers, and these rights are presently being quantified through negotiations by the State, Tribes, and U.S.

Another difference is that the estimates of water supplies on the U.S. side of the basin were too high in 1921. The U.S. Reclamation Service, predecessor to the Bureau of Reclamation, felt that it could irrigate 220,000 acres in the Milk River Project. Today, the Milk River Project provides water to 98,700 project acres and 11,500 acres under separate contracts, as well as 4,400 acre-feet to municipalities. The project is short of water in 6 years out of every 10, and everyone receives about one-half of a full water supply in good years. A revised order is needed to reduce these water shortages.

A number of storage projects that in 1921 were contemplated for construction were not built. One was a joint U.S./Canadian storage project on Lower St. Mary Lake that would have provided the U.S. with more of its entitlement.

Further, in 1920, Canada testified that irrigation was very important to Alberta in the St. Mary River basin, but not in the Milk River basin. According to Alberta's own figures, however, the province is now irrigating 8,601 acres in the Milk River basin, most of which is full service irrigation.

(6) There are problems with the existing administrative procedures. There are a number of problems with the existing administrative procedures that are used to implement the 1921 Order. First, the existing procedure allows deficits to be made up, but not the loss of surplus flows. In most years, the U.S. loses surplus flows or a significant portion of our entitlement to Canada, and the U.S. is not allowed to make up this amount. Second, Canada irrigates considerably more acres in the Milk River basin of Canada than are used in the apportionment calculations, causing more water to be charged against the U.S. entitlement. Third, more irrigation depletion is charged against the U.S. in the headwaters of the North Fork of the Milk River upstream of where the St. Mary water enters the Milk than that which actually occurs. This, in turn, increases the calculated natural flow of the Milk River and reduces the U.S. entitlement. Alberta has indicated that it is not interested in addressing the procedure issues until the IJC begins a review of the 1921 Order.

(7) Drought and global warming are becoming more prevalent and may become the norm. Global warming is affecting water supplies in the Milk and St. Mary River basins. The glaciers in Glacier National Park have melted to about one-fourth of the size that they were 80 years ago. These glaciers, which are in the headwaters of these basins, will soon be gone. When this happens, the total volume of runoff will be less, and the timing of runoff will change. The issue was not contemplated in 1909, and the 1921 Order does not address it.

Spring Rains Ease Water Crunch

by Mike Dailey, DNRC

At the end of April, the water supply was not looking good for the basin. The Bureau of Reclamation and the Joint Board of Control had to set the irrigation allotment at 1.1 acre-feet of water per acre, or about 55 percent of average.

A combination of circumstances caused this water shortage. First, there was low carryover storage in project reservoirs. Second, precipitation in the mountains and upper basin was below average. Third, critical repairs had to be done to several drop structures at the end of the St. Mary Canal, which in turn caused delays in transferring water from the St. Mary River to Fresno Reservoir.

Mother Nature was being good to folks in the eastern half of the basin, but not in the western half. Mountain snowpack peaked a month early at 77 percent of average (similar to 2001), while the lower basin received record-setting snowfall. For example, Glasgow set a new record of 70.7 inches, eclipsing a 52-year-old record by nearly 10 inches. But this heavy snow did not extend far enough west to significantly benefit basin-wide storage. Between January 1 and April 30, total precipitation was 122 percent of average in Glasgow, but only 45 percent in Havre.

Several factors changed this poor outlook. First, much of the heavy snow in the lower part of the basin was captured in Nelson Reservoir as a result of the upgrades to Dodson Dam. This made the transfer of water from Fresno to Nelson unnecessary. Fresno would have been considerably worse off had the early runoff not been captured in Nelson. Secondly, several large storms dropped widespread snow and rain over much of the basin in May. This alleviated a lot of the pressure to use stored water for irrigation. May precipitation totals ranged from 2 to 5 inches.

Table 1 below shows the storage content of Milk River reservoirs on June 2.

Table 1
Storage Content of Milk River Reservoirs

Reservoir	Storage (acre-feet)	Percentage of Average	Runoff Prediction (acre-feet)
Sherburne	24,800	77	45,000 (BOR estimate)
Fresno	47,400	70	NA
Nelson	64,200 (total)	100	NA

Photo by Mike Dailey

Low water level in Fresno Reservoir this spring

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Milk River Watershed News
is prepared and published by
DNRC—Water Management Bureau
Helena (406) 444-6637
Editor, Rich Moy
Pre-press by DNRC staff

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